



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,603	11/16/2001	Howard A. Hardee	29002-11270	4747

33042 7590 05/17/2004
LEYDIG, VOIT & MAYER, LTD.
(SEATTLE OFFICE)
TWO PRUDENTIAL PLAZA
SUITE 4900
CHICAGO, IL 60601-6780

EXAMINER

WILKENS, JANET MARIE

ART UNIT	PAPER NUMBER
----------	--------------

3637

DATE MAILED: 05/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/998,603

Applicant(s)

HARDEE ET AL.

Examiner

Janet M. Wilkens

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/19/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 and 35-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 and 35-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/02/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Black. Black teaches a sheet (33) formed using a piece of fabric having corners constructed with two pieces of material (34,36) stitched together (Fig. 10) and stitched to form the respective corner (see Fig. 6). For the corner attachment, the larger piece of material (34) would inherently need to be first positioned inside out (with the second smaller piece (36) located interiorly) so that the seam could be stitched and would not be visible during use of the sheet. Furthermore, both pieces of material have notches (see Fig. 10).

Claims 39 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Bareis. Bareis teaches a tent having a floor tub (see Fig. 5) with side walls and corners formed to be water tight.

Claims 39 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Kubacki. Kubacki teaches a tent having a floor tub (17,18) with side walls and corners formed to be water tight.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-12, 14-17, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black in view of Dehner. Black teaches the limitations of claims 1-5 and 22-24, including a first sheet forming three-dimensional corners. For claims 7-12, 14-16, 26, and 27, Black fails to teach a second/third sheet of material, i.e. waterproof sealing tape, attached to the interior portions of the corners. First, although Black teaches a fabric sheet, fitted plastic sheets are well known in the art for use as mattress covers to prevent liquid from ruining the mattress, to protect occupants from dust, articles in the mattress itself, etc. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use an alternate type of material for the sheet, i.e. using a plastic sheet instead of a fabric sheet, for the advantages stated above. Second, Dehner teaches the use of waterproof sealing tape (66) for covering a seam (see Fig. 2) to prevent unwanted water penetration there through and to provide added strength there at. It would have been obvious to one of ordinary skill in the art at the time of the invention to add waterproof sealing tape to the seams of Black, such as is taught by Dehner, to prevent water from entering the sheet through those points and to strengthen to the sheet at the seams.

For claim 17, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the sheet of Black in view of Dehner in combination with two chairs in order to form a child's tent for play purposes.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Black in view of Dehner as applied to claims 7-12, 14-17, 26 and 27 above, and further in view of Hammond. As stated above, Black in view of Dehner teaches the limitations of claims 1 and 11, including first, second and third sheets forming three-dimensional corners. For claim 13, Black in view of Dehner fails to teach that the first and third sheets are polyethylene. Hammond teaches the use of polyethylene sheets (column 5, lines 43-46); these sheets being attached via heat welding to attachment members. It would have been obvious to one of ordinary skill in the art at the time of the invention to use an alternate type of material for the first and third sheets, i.e. using polyethylene sheets, such as is taught by Hammond, instead of the sheets presently used, depending on the desired need of the person constructing the sheet, e.g. depending on the material readily available, properties of the sheets desired, etc.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Black. As stated above, Black teaches the limitations of claims 1 and 18, including a first sheet. For claim 19, Black fails to teach that the sheet forms a tent. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the sheet of Black in combination with two chairs in order to form a child's tent for play purposes.

Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black. Black teaches a sheet (33 which could also be called a "tub floor") formed using a piece of fabric having corners constructed with two pieces of material (34,36) stitched together (Fig. 10) and stitched to form the respective corner (see Fig. 6). For the corner attachment, the larger piece of material (34) would inherently need to be first positioned inside out (with the second smaller piece (36) located interiorly) so that the seam could be stitched and would not be visible during use of the sheet. Furthermore, both pieces of material have notches (see Fig. 10). For claims 22-24, Black fails to teach that the sheet/tub floor forms a tent. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the sheet of Black in combination with two chairs and with at least one other sheet in order to form a child's tent for play purposes.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Black as applied to claims 22-24 above, and further in view of Hammond. As stated above, Black teaches the limitations of claims 22-24, including first and second sheets forming three-dimensional corners. For claim 25, Black fails to teach that the first and second sheets are polyethylene. Hammond teaches the use of polyethylene sheets (column 5, lines 43-46); these sheets being attached via heat welding to attachment members. It would have been obvious to one of ordinary skill in the art at the time of the invention to use an alternate type of material for the first and second sheets, i.e. using polyethylene sheets, such as is taught by Hammond, instead of the sheets presently used, depending on the

desired need of the person constructing the tent, e.g. depending on the material readily available, properties of the sheets desired, etc.

Claims 35 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black in view of Dehner. Black teaches a sheet (33) formed using a piece of fabric having corners constructed with two pieces of material (34,36) stitched together (Fig. 10) and stitched to form the respective corner (see Fig. 6). For the corner attachment, the larger piece of material (34) would inherently need to be first positioned inside out (with the second smaller piece (36) located interiorly) so that the seam could be stitched and would not be visible during use of the sheet. Furthermore, both pieces of material have notches (see Fig. 10). For claims 35 and 38, Black fails to teach a waterproof sealing tape attached to the interior portions of the corners. First, although Black teaches a fabric sheet, fitted plastic sheets are well known in the art for use as mattress covers to prevent liquid from ruining the mattress, to protect occupants from dust, articles in the mattress itself, etc. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use an alternate type of material for the sheet, i.e. using a plastic sheet instead of a fabric sheet, for the advantages stated above. Second, Dehner teaches the use of waterproof sealing tape (66) for covering a seam (see Fig. 2) to prevent unwanted water penetration there through and to provide added strength there at. It would have been obvious to one of ordinary skill in the art at the time of the invention to add waterproof sealing tape to the seams of Black, such as is taught

by Dehner, to prevent water from entering the sheet through those points and to strengthen to the sheet at the seams.

Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black in view of Dehner as applied to claims 35 and 38 above, and further in view of Hammond. As stated above, Black in view of Dehner teaches the limitations of claims 35 and 38, including a first sheet and tape forming three-dimensional corners. For claims 36 and 37, Black in view of Dehner fails to teach that the first sheet and tape are polyethylene. Hammond teaches the use of polyethylene sheets (column 5, lines 43-46); these sheets being attached via heat welding to attachment members. It would have been obvious to one of ordinary skill in the art at the time of the invention to use an alternate type of material for the first sheet and tape, i.e. using polyethylene sheet/tape, such as is taught by Hammond, instead of the sheet/tape presently used, depending on the desired need of the person constructing the sheet, e.g. depending on the material readily available, properties of the sheet/tape desired, etc.

Claims 1-6 and 18 -24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubacki in view of Black. Kubacki teaches a tent with a tub floor having corners formed from a first sheet (17,18). Each corner includes a tab/loop thereon for the insertion of ground pegs (20). Kubacki fails to specifically teach how the corners are formed. Black teaches a sheet/"tub" (33) formed using a piece of fabric having corners constructed with two pieces of material (34,36) stitched together (Fig. 10) and stitched to form the respective

corner (see Fig. 6). For the corner attachment, the larger piece of material (34) would inherently need to be first positioned inside out (with the second smaller piece (36) located interiorly) so that the seam could be stitched and would not be visible during use of the sheet. Furthermore, both pieces of material have notches (see Fig. 10). It would have been obvious to one of ordinary skill in the art at the time of the invention to have the corners of the tub of Kubacki formed via stitching and adding a reinforcement thereto (for claim 24), such as is taught by Black, to provide a specific, known way to form the corners thereof. Furthermore, it would be known to add the tabs to the corners after they are completely formed.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kubacki in view of Black as applied to claims 22-24 above, and further in view of Hammond. As stated above, Kubacki in view of Black teaches the limitations of claims 22-24, including first and second sheets forming three-dimensional corners. Kubacki further teaches plastic heat sealing (column 4, lines 38-42) implying that the bottom sheet could be made of plastic material. For claim 25, Kubacki in view of Black fails to teach that the first and second sheets are specifically polyethylene. Hammond teaches the use of polyethylene sheets (column 5, lines 43-46); these sheets being attached via heat welding to attachment members. It would have been obvious to one of ordinary skill in the art at the time of the invention to use an alternate type of material for the first and third sheets, i.e. using polyethylene sheets, such as is taught by Hammond, instead of the sheets presently used, depending on the desired need of the

Art Unit: 3637

person constructing the tent, e.g. depending on the material readily available, properties of the sheets desired, etc.

Claims 26, 27, 35 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubacki in view of Black as applied to claims 22-24 above, and further in view of Dehner. As stated above, Kubacki in view of Black teaches the limitations of claims 22-24, including a first sheet forming three-dimensional corners. Kubacki further teaches plastic heat sealing implying that the sheet could be made of plastic material. For claims 26, and 27, Kubacki in view of Black fails to teach a waterproof sealing tape attached to the interior portions of the corners. Dehner teaches the use of waterproof sealing tape (66) for covering a seam (see Fig. 2) to prevent unwanted water penetration there through and to provide added strength there at. It would have been obvious to one of ordinary skill in the art at the time of the invention to add waterproof sealing tape to the seams of Kubacki in view of Black, such as is taught by Dehner, to prevent water from entering the sheet through those points and to strengthen to the sheet at the seams.

Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubacki in view of Black in view of Dehner as applied to claims 35 and 38 above, and further in view of Hammond. As stated above, Kubacki in view of Black in view of Dehner teaches the limitations of claims 35 and 38, including a first sheet and tape forming three-dimensional corners. For claims 36 and 37, Kubacki in view of Black in view of Dehner fails to teach that the first sheet and tape are polyethylene. Hammond teaches the use of

Art Unit: 3637

polyethylene sheets (column 5, lines 43-46); these sheets being attached via heat welding to attachment members. It would have been obvious to one of ordinary skill in the art at the time of the invention to use an alternate type of material for the first sheet and tape, i.e. using polyethylene sheet/tape, such as is taught by Hammond, instead of the sheet/tape presently used, depending on the desired need of the person constructing the tent, e.g. depending on the material readily available, properties of the sheet/tape desired, etc.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

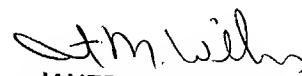
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens
May 10, 2004


JANET M. WILKENS
PRIMARY EXAMINER
A-U 3637